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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,869	03/23/2004	Anthony A. Di Stasio	CREST 4	2693

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EXAMINER


CONLEY, FREDRICK C

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No.	Applicant(s)	
	10/806,869	DI STASIO ET AL	
	Examiner	Art Unit	
	FREDRICK C CONLEY	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/19/04</u> | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,159,574 to Landvik et al.

Claim 1, Landvik discloses a foam mattress comprising a reticulated, viscoelastic foam (6,7). Reticulated is defined as resembling or forming a network thus the viscoelastic layers of Landvik form a network. Landvik fails to disclose the viscoelastic foam is comprised of at least about fifteen percent by weight. It is well known that viscoelastic foam is constructed from Polyol Blend.TM., and it would have been obvious to one having ordinary skill in the art at the time of the invention to construct the mattress with the range of about fifteen percent by weight in order to provide a reduced quantity of deformable viscoelastic cushioning material.

Claim 2, wherein the foam mattress comprises a plurality of layers of foam (5,6,7), and one of the layers comprises the reticulated, viscoelastic foam (6,7).

Claim 3, wherein the foam mattress comprises a plurality of zones of foam (5,6,7), and one of the zones comprises the reticulated, viscoelastic foam (6,7).

Claim 4, wherein the mattress comprises three or more layers of foam (5-7), and an outside layer 7 comprises the reticulated, viscoelastic foam .

Art Unit: 3673

Claim 5, wherein the outside layer 7 covers substantially the entire length and width of the mattress.

Claim 6, wherein a second layer 5 comprises a reticulated polyurethane foam, and the reticulated viscoelastic and reticulated polyurethane foams are adhered to each other (col. 3 lines 5-14).

Claim 7, Landvik fails to disclose the viscoelastic foam is comprised of about 15% to about 75% by weight of viscoelastic polyol. It is well known that viscoelastic foam is constructed from Polyol Blend.TM., and it would have been obvious to one having ordinary skill in the art at the time of the invention to construct the mattress with the range of about fifteen to seventy-five percent by weight in order to provide a reduced quantity of deformable viscoelastic cushioning material.

Claim 8, Landvik fails to disclose the viscoelastic foam is comprised of about 60% to about 70% by weight of viscoelastic polyol. It is well known that viscoelastic foam is constructed from Polyol Blend.TM., and it would have been obvious to one having ordinary skill in the art at the time of the invention to construct the mattress with the range of about sixty to seventy percent by weight in order to provide a reduced quantity of deformable viscoelastic cushioning material.

Art Unit: 3673

Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,159,574 to Landvik et al. in view of U.S. Pat. No. 3,846,857 to Weinstock.

Claim 9. Landvik discloses all of the Applicant's limitations except for the mattress comprising a plurality of zones of foam. Weinstock discloses a mattress comprising a plurality of zones of foam. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a plurality of zones as taught by Weinstock in order to support the head, shoulders, back, hips and heels with varying degrees of pressure on these parts of the body to promote maximum comfort and to minimize the occurrence and severity of decubitus ulcers or bed sores.

Claim 10, wherein the foam mattress comprises at least three layers of foam (5-7) and at least three zones of foam.

Claim 11, wherein the foam mattress has a symmetrical layer construction.

Claim 12, wherein the foam mattress has a symmetrical zone construction.

Claim 13, wherein the foam mattress has a symmetrical zone construction.

Allowable Subject Matter

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3673

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C CONLEY whose telephone number is 703-308-7468. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



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